



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/587,525	06/05/2000	Gerald Isaac Kestenbaum	RM003	7398
2352 7590 10/23/2008 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403				
EXAMINER				
VIG, NARESH				
ART UNIT		PAPER NUMBER		
3629				
MAIL DATE		DELIVERY MODE		
10/23/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/587,525
Filing Date: June 05, 2000
Appellant(s): KESTENBAUM, GERALD ISAAC

Robert C. Faber (Registration No. 24,322)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 25 July 2008 appealing from the Office action mailed 25 January 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

This appeal involves claims 98 – 100 and 102 – 160. The withdrawal of the appeals as to claims 161 – 163 operates as an authorization to cancel these claims from the application or reexamination proceeding. See MPEP 1215.03. Accordingly these claims are cancelled. The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

This appeal involves claims 98 - 100 and 102 - 160. The withdrawal of the appeal as to claims 161 – 163 operates as an authorization to cancel these claims from the application or reexamination proceeding. See MPEP 1215.03. Accordingly these claims are cancelled.

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,038,315	STRAIT et al.	3-2000
Aihara et al. Japanese Patent JP 410229413 A, 25 August 1998		
Abe Japanese Patent JP 0809850 A, 12 April 1996		
Information on Yahoo.com, 28 November 1996		

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 98 – 100, 102 – 111, 113 – 118, 121 – 134 and 139 – 143 and 159 – 160 are not patentable under 35 U.S.C. 103(a) over Aihara et al. Japanese Patent JP410229413A hereinafter known as Aihara.

Regarding claims 98, 109 and 159 – 160, Aihara teaches system and method and computer program for exchanging information among tenants. Aihara does not explicitly teaches exchanging information for a collaborative real estate management system for exchanging information among tenants and an individual associated with management of a building (type of a user). However, Aihara explicitly teaches using communication like email over the intranet. Also, it is old an known at the time of invention to one of ordinary skill in the art that building supervisor (aka super) associated with the real estate management who took care of tenant needs lived in the building as a tenant (at least in New York City). Tenants communicated with super for services like repairs associated with the apartment. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention to modify Aihara teachings of plurality of user devices from which one of the device can be given to an individual associated with management of a building (building super) and use electronic exchange medium like internet, intranet, LAN etc. to electronically exchange information between the tenants and individual associated with the management of the building.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Aihara and have one of the users be an individual associated with management of a building to allow the tenants to electronically communicate with the building management team.

Aihara in view of modification to Aiharea teaches:

a computer system in communication with data input and output devices accessible by said tenants and said individual associated with management of said building

computer system including one or more processors networked together and programmed to process data relating to management of said building;

said one or more processors programmed

i) to receive a communication relating to management of said building from a device associated with at least one of said tenants, said communication including data which can include information indicating an instruction being associated with a task performed by said individual, said individual being associated with a front desk of said building a front gate of said building or a combination thereof (appellant is claiming type of users for exchange of information and type of message generated by the tenant),

ii) to associate said instruction with said at least one of said tenants using an identifier (Aihara teaches email for communication, and, it is old and known that email header identifies the sender of the email, i.e. email is associated with the user)

iii) to store said instruction and said identifier on said computer system (emails are stored for later retrieval by a recipient at a later time)

iv) to enable said individual to search said computer system to obtain said instruction using a computing device associated with said individual (Aihara teaches a user can use their device to access information),
to enable interaction by tenants with individual, through the system.

Regarding claim 99, Aihara teaches to use a database (data storage means).

Regarding claim 100, Aihara storage means capable of storing data. Therefore, Aihara storage means can store data which includes a library of documents relating to said building which documents are accessible for viewing, storing, and editing by said tenants, a staff member, building manager, or any combination thereof (appellant is claiming type of data stored on a computer system as their invention)

Regarding claim 102, Aihara teaches capability to exchange communication with plurality of users. It is obvious that Aihara has capability to receive a communication relating to information regarding a service request among said tenants (appellant is claiming contents of an electronic message as their invention), a staff member, building manager (appellant is claiming type of user as their invention).

Regarding claims 103 – 104, as responded to earlier, Aihara teaches capability to receive a communication relating to package delivery and pickup information from a device associated with said individual (e.g. tenant calls front desk to inquire if the mail

man has picked up today's mail, is there a package waiting for them, capability also found in hotels where a hotel guest contacts the business office for mail service).

Regarding claim 105, Aihara teaches capability to receive information posted by one of said tenants for viewing by other tenants of said building (e.g. list items for sale in the classifieds, print discount coupons from local merchants, and chat or play games in real time with other residents).

Regarding claim 106 – 108, as responded to earlier, Aihara storage means is capable of storing data like tenants, data relating to tasks, data relating to building maintenance programs.

Regarding claims 110, 113, as responded to earlier, Aihara is capable handling a message which includes instruction like permission to give access to a unit associated with a tenant, package delivery. (appellant is claiming content in a message as their invention, also, subject of the email can recite "package delivery" to notify recipient of tenant's intention of the email).

Regarding claim 111, Aihara teaches communication among tenants. Aihara teaches capability wherein unit number associated with the tenant can be used as a email id to identify the tenant.

Regarding claim 114, Aihara teaches using storage for storing data which the user want to store on the storage means for later retrieval (appellant is claiming type of data stored and key assigned to storing data in the storage means as their invention). Aihara teaches capability for:

storing information regarding pick-up, by said tenant, of said package (e.g. using the task function or calendar function of the tools provided with email packages like Microsoft Outlook)

associating said stored information with said instruction (e.g. email has associated information which teaches who originated the email).

Regarding claim 115, Aihara teaches capability for generated information which can contain notification associated with said instruction, and transmitting the transmitting said notification to said computing device associated with said tenant (e.g. deliver of email from building management to tenant).

Regarding claim 116, Aihara teaches capability for transmitting data representing portion of first instruction.

Regarding claim 117, as responded to earlier, Aihara devices can be placed in public area like entranceway associated with a building, an elevator associated with a building, another public area associated with a building etc.

Regarding claim 118, as responded to earlier, Aihara teaches capability for displaying data representing portion of first instruction (appellant is claiming content of information on a display screen as their invention).

Regarding claim 121, Aihara teaches using LAN/intranet to interconnect plurality of user devices. It is old an known that an apartment complex can have plurality of buildings. Therefore, Aihara teaches capability for providing aggregated data for said first building and a second building (intranet, plurality of buildings).

Regarding claim 122, as responded to earlier, Aihara teaches capability wherein tenant is a first tenant and individual is a first individual (users of Aihara), support for:

receiving a request for service via a computing device associated with a second tenant associated with said building (recipient receiving email from a tenant);

storing said request for service on said central computer (has been responded to earlier, storing of email in storage for later retrieval by the recipient); and

enabling a second individual to search said central computer to obtain said request for service using a computing device (enabling recipient to be able to access the email).

Regarding claim 123, Aihara teaches capability to support user wherein first individual is identical to said second individual (appellant is claiming type of users as their invention).

Regarding claim 124, as responded to earlier, Aihara teaches communication between plurality of users over a LAN. Aihara is capability for providing aggregated data for said first and second buildings, said data comprising said request for service and another request for service associated with said second building.

Regarding claim 125, as responded to earlier, Aihara teaches capability to handle message which comprises an email address.

Regarding claim 126, as responded to earlier, Aihara has capability for enabling a user to search said central computer to obtain a list of search results including said request for service (e.g. unopened emails, sort emails by header, sender, date etc. to assist in searching).

Regarding claim 127, as responded to earlier, Aihara teaches exchange of emails among users. It is old and known that users can sort email (e.g. Lotus Notes, Microsoft Outlook etc.). Therefore, Aihara teaches capability for enabling users to sort list of search results status.

Regarding claim 128, Aihara teaches capability for enabling a user associated with building management to modify request for service (e.g. user responding to the email).

Regarding claim 129, Aihara teaches capability for allowing users to modify (forwarding the message) request for service which can comprise posting a comment to said request log etc. (appellant is claiming content of a message as their invention).

Regarding claim 130, Aihara teaches capability for transmitting a notification in response to said request for service (transmitting of email).

Regarding claim 131, Aihara teaches capability for transmitting an email.

Regarding claim 132, Aihara teaches capability for permitting access to information stored on said central computer based on a type of user (e.g. authorized user like a tenant; appellant is claiming type of user as their invention).

Regarding claims 133 – 134 and 139, Aihara teaches capability for supporting different type of users (appellant is claiming limiting use of invention to particular type of users as their invention).

Regarding claims 140 – 143, Aihara teaches capability for transmitting information like acknowledgements to users (e.g. email acknowledgment message).

Regarding claim 160, as responded to earlier in response to claim 109, Aihara teaches a collaborative real estate management system for exchanging information among tenants and an individual associated with management of a building (responded to response to claim 109), comprising:

a computer system in communication with data input and output devices accessible by said tenants and said individual (responded to response to claim 109), the computer system comprising:

a means for receiving an instruction from one or more of said devices associated with a first tenant associated with said building, said instruction being associated with a task performed by said individual, wherein said individual is associated with a front desk of said building, a front gate of said building etc. (responded to response to claim 109);

a means for associating said instruction with said first tenant using an identifier (inherent with an email, responded to response to earlier);

a means for storing said instruction and said identifier on a central computer (responded to response to claim 109); and

a means for enabling said individual to search said central computer to obtain said instruction using one or more of said devices associated with said individual (responded to response to claim 109).

Claim 112 and 136 are not patentable under 35 U.S.C. 103(a) over Aihara et al. Japanese Patent JP410229413A hereinafter known as Aihara in view of Abe Japan Patent JP 08097850.

Regarding claims 112 and 136, Aihara does not teach designating said instruction as being inactive upon expiration of a specified time period. However, Abe teaches designating said instruction as being inactive upon expiration of a specified time period.

Therefore, it would have been obvious at the time of invention to one of ordinary skill in the art to adopt teaching of Abe and modify Aihara to monitor whether the opening of the sent messages by the recipient.

Claim 119 and 120 are are not patentable under 35 U.S.C. 103(a) over Aihara et al. Japanese Patent JP410229413A hereinafter known as Aihara in view of Strait et al. US Patent 6,038,315 hereinafter known as Strait.

Regarding claim 119, Aihara does not teach receiving biometric data. However, Strait teaches receiving biometric data for secure remote verification of users.

Therefore, it would have been obvious at the time of invention to one of ordinary skill in the art to adopt the teaching of Strait and modify Aihara to provide alternate means for identifying users.

Regarding claim 120, Aihara in view of Strait teaches capability for comparing said received biometric data with biometric data stored on said central computer [Strait Fig. 2 and disclosure with Fig. 2].

Claim 135, 137, 138 and 144 – 156 are not patentable over Aihara et al.
Japanese Patent JP410229413A hereinafter known as Aihara in view of Yahoo.com.

Regarding claim 135, Aihara teaches capability for providing bulletin board. Aihara does not teach an electronic library including one or more electronic documents. However, Yahoo teaches electronic library including one or more electronic documents.

Therefore, it would have been obvious at the time of invention to one of ordinary skill in the art to adopt the teachings of Yahoo and modify Aihara to provide remoter access of building related documents to tenants.

Regarding claim 144, Aihara in view of Yahoo teaches capability for enabling a user to search said electronic library using a keyword.

Regarding claim 145, Aihara in view of Yahoo teaches capability for allowing access to said electronic library by users associated with said first building and users associated with a second building (users from plurality of locations).

Claim 146, as responded to earlier in response to claim 122, Aihara in view of Yahoo teaches capability for:

receiving a request for service via a computing device associated with a second tenant associated with said building;

storing said request for service on said central computer;

enabling a second individual to search said central computer to obtain said request for service using a computing device; and

providing an electronic library including one or more electronic documents.

Regarding claim 147, as responded to earlier in response to claim 121, Aihara in view of Yahoo teaches capability for providing aggregated data for said first and second buildings.

Regarding claim 148, as responded to earlier, Aihara in view of Yahoo teaches capability for message to comprise an email address (e.g. header of an email).

Regarding claim 149, as responded to earlier, Aihara in view of Yahoo teaches capability for transmitting a notification.

Regarding claim 150, as responded to earlier, Aihara in view of Yahoo teaches capability for transmitting an email message.

Regarding claims, 137, 138 and 151, Aihara in view of Yahoo teaches capability for associating permissions with an electronic document in said electronic library, said permissions defining which users can access, view, update etc. the electronic document. For example, search over the internet from Yahoo.com allows users only view the content, but does not allow the users to update the content. Another example is controlled access bulletin boards, chat rooms etc., corporation bulletin boards which can provide company rules and regulation documents online which can be read by employees but updated or replaced by authorized users only.

Regarding claim 152, as responded to earlier, Aihara in view of Yahoo teaches capability to transmit a notification in response to an electronic document (e.g. email).

Regarding claim 153, Aihara in view of Yahoo teaches capability for permitting access to information stored on said central computer based on a type of user (e.g. authorized user like a tenant; appellant is claiming type of user as their invention).

Regarding claim 154, as responded to earlier. Aihara in view of Yahoo teaches capability of handling message with instruction associated with package delivery.

Regarding claim 155, as responded to earlier, Aihara in view of Yahoo teaches capability for transmitting data representing portion of said first instruction to a public display.

Regarding claim 156, as responded to earlier, Aihara in view of Yahoo teaches capability wherein public display comprises a display which can be placed in an entranceway associated with said building.

Claims 157 and 158 are not patentable under 35 U.S.C. 103(a) over Aihara et al. Japanese Patent JP410229413A hereinafter known as Aihara in view of Yahoo.com and further in view of Strait et al. US Patent 6,038,315 hereinafter known as Strait.

Regarding claim 157, Aihara in view of Yahoo does not teach receiving biometric data. However, Strait teaches receiving biometric data for secure remote verification of users.

Therefore, it would have been obvious at the time of invention to one of ordinary skill in the art to adopt the teaching of Strait and modify Aihara in view of Yahoo to provide alternate means for identifying users.

Regarding claim 158, Aihara in view Yahoo and Strait teaches capability for comparing said received biometric data with biometric data stored on said central computer [Strait Fig. 2 and disclosure with Fig. 2].

(10) Response to Argument

In response to appellant's argument whether claim 121 is unpatentable under 35 USC 112, first paragraph.

In the office action 25 January 2008, Claim 121 had not been deemed patentable under 35 USC 112, first paragraph as a grounds of rejection.

In response to appellant's argument whether claims 112 and 136 are unpatentable under 35 USC 112, second paragraph.

In the office action 25 January 2008, Claims 112 and 136 had not been deemed patentable under 35 USC 112, second paragraph as a grounds of rejection

In response to appellant's argument that the difference between Aihara and the claimed invention is more than "the type of user". Aihara is an internal wiring system within apartment buildings where each apartment has a connected computing device. Aihara, was developed developed to solve the problem of not being able to distribute

information in a timely manner to all residents using circular letters (letters that are circulated from one resident to another and can get held up when a resident is absent and can't circulate immediately) and bulletin boards (notice plates) at the entrance doors. [Aihara machine translation, problem to be solved, paragraphs 0001-0008, Appendix A].

However, Aihara invention is directed to a housing area intranet system for Email exchange, an electronic notice etc. [0010]. In addition, Aihara teaches capability for a tenant to make request for reservation of building facility [0034]. Aihara also teaches capability for allowing a tenant to request for a service or product from a resident to a store (e.g. Condotel, with a grocery store etc.)

In response to appellant's argument that Aihara teaches system and method and computer program for exchanging information among tenants examiner's reasoning in the office action mailed 25 January 2008 appears to be stating that, one skilled in the art can simply insert "an individual associated with management" at one of the devices and all of the claim limitations will be met.

However, as explained in the office action mailed 25 January 2008, a building maintenance person aka known as Super who can be considered as one of the tenants in Aihara, and the information can be exchanged between other tenants and the super (person relating to the management of the building).

In response to appellant's opinion that the Examiner seems to be stating that claimed invention is nothing more than sending an email from a tenant to a building manager, and, In contrast, the appellant claims a collaborative system in which a communication is received. The communication includes data indicating an instruction and that instruction is associated with a task that is performed by an individual associated with the front desk and/or front gate, and, an email message is a free-form type of communication that can be presented in whatever fashion the sender would like to construct it. In contrast, an instruction is a structured form with which the collaborative system can associate other data and store appropriately.

However, appellant is arguing a limitation not positively claimed by the appellant (see independent claims 98, 109). In order to enforce that the instruction is structured form, a tenant needs to make a request from a list of structured instruction(s), or, tenant is presented with an online form which the tenant completes to make a structured request, etc.

In response to appellant's argument that Claim 114 requires the storing of information about the pick-up of the package and/or laundry by the tenant. This information thus represents the state of the instruction (e.g., its completion status). This is not merely email content, but state information. Further this state information is associated with the instruction to which it belongs. Specifically with regards to claim 114, the Examiner makes the following rejection.

However, as currently claimed, there is no update to the information performed by the front desk. Aihara teaches capability of communication updates to the tenant's service request [0033]. Since Aihara communicates via email, it is old and known that emails are stored.

In response to appellant's argument that office action does not address how additional stored data is associated back to the instruction (the email). This specific type of data, information regarding pick-up of the package and/or laundry by the tenant is not information that was included in the original instruction (email in the Examiner's analogy).

However, it is old and known that emails have subject using which group of emails associates with the subject can be grouped together.

In response to appellant's argument that Aihara allows for the ability of a manager to send messages to the tenants, but does not provide for the collaborative system as described by claim 98. Nothing in the Aihara reference suggests or gives any incentive to the association of an instruction from a tenant with a task performed by management.

However, since Aihara teaches communication in the building intranet using emails, Aihara does not restrict emails to be generated only by the management.

In response to appellant's argument that the appellant notes also that, as indicated above, email systems did exist at the time of the invention. It seems to follow that if the Appellant's claimed invention was obvious at the time, then any of the customers and building managers could have simply done their own modifications instead of buying the Appellant's product.

However, it is old and known that businesses often prefer purchasing off the shelf packages to save on development and maintenance costs. For example, Worksheets like Microsoft Excel and Lotus 123 were available for businesses to keep accounting information, still businesses wanted to purchase accounting packages like Quicken, Peachtree etc. to save on cost. Another example, businesses are known to purchase templates of websites instead of recreating their own templates to save on development costs.

In response to appellant's argument that one of the submitted declarations states that a product that includes the claimed features "has achieved a very high level of commercial success since its introduction into the marketplace in July 2000. The prior art, Aihara, does not teach or suggest a collaborative real estate management system where a communication includes an instruction associated with a front desk/gate task that is associated with additional information nor does the prior art teach allowing management to search the instruction and its associated information. Furthermore, the commercial success of the product that includes the claimed features and the need in the field for the claimed features indicates that it was not obvious to form the claimed

subject matter in light of Aihara. Three customers of the product that includes the claimed features commented that the product has innovations that other products on the market do not have. In addition, one customer commented that the product solves an age old problem in property management. The secondary considerations of commercial success and long felt but unsolved needs indicates that it was not obvious to modify these or any other references to the limitations of claim 98 and the other claims in this group.

One of the ordinary skill in the art knows that advertising can have a major affect on in the commercial success. Successful advertising can divert a customer towards a vendor, hence the commercial success of the vendor's product. For example, advertising of the appellant's product may have been better than the intranet for apartment dwellers product as mentioned in Jerusalem Post article (2 page reference provided to appellant on 10 September 2004). Another example, even though sneakers were available from plurality of vendors, Nike's successful advertising made Nike sneakers a commercial success.

In response to appellant's argument that Aihara does not teach or suggest receiving communication relating to package delivery and pickup information. There are no objective reasons to modify Aihara which is an electronic mail system to a system that receives communication relating to package delivery and/or pickup information, which are tasks performed by an individual at the front desk/gate.

However, Aihara teaches capability of receiving information related to a request made by a tenant [see Fig. 9b and disclosure associated with the figure]

In response to appellant's argument that Aihara does not teach or suggest receiving and responding to surveys questions from the management of the building. The Examiner is using impermissible hindsight vision of the claimed invention to provide teaching to modify the Aihara reference.

However, one of ordinary skill in the art can send email to a tenant to survey how what the quality of service rendered, to which the tenant can respond with their feedback.

In response to appellant's argument that cited reference does not teach concept of transmitting data representing the instructions to a public display.

However, Aihara recites that providing a notice plate in the inlet port of the ensemble door (public display, electronic billboards etc.) to a resident is already known to businesses [0003].

In response to appellant's argument that the prior art status of the reference, Yahoo.com, cannot be determined based on the information in the Office Action dated July 7, 2006.

Reference date of Yahoo reference is 28 November 1996 which is indicated in form PTO-892 (Paper No. 20070510). Date can be retrieved from the URL wherein the date is in YYYYMMDD format.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Naresh Vig/

Primary Examiner, Art Unit 3629

Conferees:

John Weiss

/John G. Weiss/

Supervisory Patent Examiner, Art Unit 3629

Janice Mooneyham

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689